

STATEMENT OF EMERGENCY REGULATION

201 KAR 15:125E

During its 2021 regular session, the General Assembly passed House Bill 220 (attached), an amendment to KRS 316.030 to allow the Board of Embalmers and Funeral Directors to establish fees through the promulgation of administrative regulations, to remove outdated language and processes. HB 220 was signed by the Governor on March 15, 2021. This emergency regulation removes fees from this regulation and centralizes all fees in one regulation. HB 220 goes into effect June 29, 2021. The renewal period of individuals and establishments for the Kentucky Board of Embalmers and Funeral Directors is July 1 through 31st. This emergency regulation will be replaced by an ordinary regulation and will be submitted at the same time. The ordinary regulation is identical to the emergency.

ANDY BESHEAR, Governor
CHRISTI K. MOFFETT, Executive Director

BOARDS AND COMMISSIONS

Board of Embalmers and Funeral Directors

(Emergency Amendment)

201 KAR 15:125E. Surface transportation permit.

EFFECTIVE: June 30, 2021

RELATES TO: KRS 316.165

STATUTORY AUTHORITY: KRS 316.165, 316.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.210 authorizes the Board of Embalmers and Funeral Directors to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. KRS 316.165(1) authorizes the board to issue a permit to an applicant for the sole and limited purpose of being allowed to provide surface transportation of dead human bodies. This administrative regulation establishes the criteria for issuance of these permits.

Section 1. Application. (1) An applicant seeking a permit to provide surface transportation for dead human bodies shall be of the age of eighteen (18) prior to submitting an application.

(2) An applicant applying for a permit to provide surface transportation and removal services for dead human bodies shall submit:

(a) A completed and signed application form, "Surface Transportation & Removal Permit Application", 9/2019;

(b) A fee in ~~[the amount of \$150]~~ as promulgated in 201 KAR 15:030;

(c) Evidence of training and compliance with the standards of the Occupational Safety and Health Administration for universal precautions and blood-borne pathogens, 29 Code of Federal Regulations (C.F.R.) 1910.1030;

(d) Two (2) passport-sized photographs of the applicant;

(e) An official copy of a criminal justice information system (CJIS) report obtained from the Federal Bureau of Investigation no more than ninety (90) days prior to the application; and

(f) Evidence of possession and control or ownership of an appropriate vehicle and necessary supplies for surface transportation of dead human bodies.

(3)(a) An appropriate vehicle shall have enclosed cargo space of sufficient size to transport a dead human body securely and without exposure to weather.

(b) Necessary supplies shall include:

1. Mortuary or ambulance cot;
2. Collapsible or flexible stretcher;
3. Sheets and cot cover;
4. Pillow or head block;
5. Rubber or plastic sheeting;
6. Towels;
7. Zippered mortuary body bag or disaster pouch;
8. Straps;
9. Protective clothing; and
10. Sanitary accessories.

Section 2. Examination. (1) An applicant seeking a surface transportation permit shall be required to pass an examination on Kentucky laws and transport procedures. The examination fee ~~[shall be seventy-five (75) dollars and may]~~ as promulgated in 201 KAR 15:030, to be paid at the time of application [or at the time of examination].

(2) The examination shall be administered ~~[by the board concurrently with other monthly examinations.]~~ at the conclusion of the course.

(3) The board shall offer a training course related to the subject matter of the examination.

Section 3. Scope of Permit. (1) Permit holders shall only engage in surface transportation of dead human bodies requested by an authorized person from the establishment by which the permit holder is employed. Surface transportation shall be limited to obtaining the dead human bodies from the location from which the transportation services were requested, and transport to the establishment by which the permit holder is employed.

(2) Permit holders shall present a photo identification to the person or establishment requesting transport, to establish that the permit holder is employed by the establishment to which transport is being requested.

(3) Permit holders shall not engage in any services of funeral directing or embalming or distribute any documents or materials related to such services.

(4) Permit holders may only be employed by one (1) establishment at one (1) time.

(5) Permit holders shall not be required to use a casket for transportation of dead human bodies, but shall be required to use a container as may be required by the above referenced OSHA guidelines.

(6) No individual who obtains or holds a permit from this board to transport dead human bodies may use transport removals performed under that permit to accumulate the number of removals required to complete an apprenticeship. All apprenticeship removals shall be performed within the requirements of the apprenticeship and under supervision, to the extent set forth in these administrative regulations. Hours accumulated in performing removals under a Transport Permit will not be counted toward the apprentice's weekly work hours requirement.

Section 4. Permit Issuance and Renewal. (1) The Surface Transportation Permit issued or renewed under this administrative regulation shall be effective for a period of one (1) year from its date of issuance.

(2) Renewal of the Surface Transportation Permit may be effected by sending to the board:

(a) A completed Surface Transportation and Removal Permit Application with the Renewal box checked. An applicant for renewal need not include any information already given on the original application, but shall include on the form any new or changed information;

(b) A renewal fee ~~[of fifty (50) dollars]~~ as promulgated in 201 KAR 15:030; and

(c) Evidence that the permit holder has in his or her possession or control an acceptable vehicle and the requisite equipment and supplies to perform surface transportation of dead human bodies.

Section 5. Incorporation by Reference. (1) "Surface Transportation & Removal Permit Application", 10/2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Embalmers and Funeral Home Directors, 9114 Leesgate Rd., Suite 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

CHRISTI K. MOFFETT, Executive Director

APPROVED BY AGENCY: June 29, 2021

FILED WITH LRC: June 30, 2021 at 12:56 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 23, 2021 at 9:00 a.m., via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until August 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Christi Moffett, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502.426.4589 fax 502.426.4117; email christik.moffett@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christi Moffett

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation moves all fees into one regulation

(b) The necessity of this administrative regulation: HB220 removed fees from statutes placing them in administrative regulations. The bill goes into effect 6/29/21. Board renewals start 7/1/21.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation removes the fees from 201 KAR 15:125 to one Fees regulation 201 KAR15:030.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation brings all the fees into one regulation for easy access.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: All the fees will be located in one regulation

(b) The necessity of the amendment to this administrative regulation: HB220 removed fees from statutes placing them in administrative regulations. The bill goes into effect 6/29/21. Board renewals start 7/1/21.

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Moving all the fees into one regulation will make it easier for readers.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Pay renewal or fee as defined

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Apprentices will pay \$75 per license

Establishments will pay the following based on their volume (case count)

Case Counts	Fee
99+	\$ 450
100-299	\$ 550
300-499	\$ 650
500+	\$ 750

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be legally licensed for a period of one year for establishments. Apprentice applications will be processed and presented to the board for consideration.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: These fees are not increasing; just being moved to a single regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation gathers all the fees into one regulation. There is a fee increase for establishments based on case counts.

(9) TIERING: Is tiering applied? Yes,

Case Count	%	KBEFD Est	# Fees
99+	54%	275	\$ 450
100-299	40%	204	\$ 550
300-499	4%	20	\$ 650
500+	2%	10	\$ 750

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Funeral Directors, Embalmers

Funeral Establishments and Embalming Services

Funeral Apprentices

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

201 KAR 15:030

KRS 316.030(4)(g)

KRS 316.030(5)(f)

KRS 316.125(2)(a)

201 KAR 15:040 Section 1(1)

201 KAR 15:040 Section 3(3)

201 KAR 15:040 Section 4(1)

201 KAR 15:050 Section 4(5)

201 KAR 15:110 Section 5(5)b

201 KAR 15:110 Section 5(5)c

201 KAR 15:110 Section 5(5)d

201 KAR 15:110 Section 5(5)e

201 KAR 15:125 Section 1(2)(b)

201 KAR 15:125 Section 2(1)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? No additional cost to the agency

(d) How much will it cost to administer this program for subsequent years? No additional cost to the agency

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

PROPOSED

Case Calls	KBEFD Facilities	Fee	Income
99+	275	\$ 450	\$ 123,750
100-299	204	\$ 550	\$ 112,200
300-499	20	\$ 650	\$ 13,000
500+	10	\$ 750	\$ 7,500
			\$ 256,450

EXISTING

Existing	KBEFD Facilities	Fee	Income
Flat Fee	510	\$ 200	\$ 102,000

Expenditures: None

Other Explanations: None